

REMARKS

Status of Claims

Claims 1, 4-7, 9, and 17-22 are pending in the application. Claims 1, 4-7, 9, and 17-20 are rejected. Claims 21-22 were not considered by the Examiner. A current listing of all pending claims may be found on the attached Appendix A commencing on page 6.

Rejection under 35 U.S.C. §103

The Examiner rejected claims 1, 4-7, 9, and 17-20 under 35 U.S.C. §103(a) as being unpatentable over Shepherd ("Shepherd"), U.S. Patent 195,850. In order to reject a claim under 35 U.S.C. §103 as being obvious over the prior art, all of the claim limitations must be taught or suggested by the prior art.

In rejecting independent claim 1, the Examiner stated that Shepherd discloses a sleep surface comprising "a first section (A) having a longitudinal side including a first upper lip (E) and a first lower lip (G'), each of said first upper and lower lips having an inner surface and an outer surface, said upper and lower lips defining a receiving channel therethrough; a second section (C) having a longitudinal side including a second upper lip (upper rim) and a second lower lip (lower rim), each of said second upper and lower lips having an inner surface and an outer [sic], said second upper lip and said second lower lip received into said receiving channel, wherein the outer surface of said second upper lip abuts the inner surface of said first upper lip and the outer surface of said second lower lip abuts the inner surface of said first lower lip forming an overlap between the first section and the second section, wherein said longitudinal side of said second section is attached to the longitudinal side of the first section; and further wherein each section is constructed and arranged to maintain an air pressure therein that is independent of an air pressure in the other section; and further wherein said first and second bladders are capable of being folded into a sleeper sofa when not in use . . ."

Applicants respectfully disagree with the Examiner's position and traverse the rejection. In particular, Shepherd does not teach or suggest a sleep surface comprising "a first bladder

having a longitudinal side including a first upper lip and a first lower lip . . . defining a receiving channel therethrough” and “a second bladder having a longitudinal side including a second upper lip and a second lower lip . . . said second upper lip and said second lower lip received into said receiving channel.” Shepherd does disclose a first mattress section A having a longitudinal side including an upper flap (G and E) and a lower flap (G’ and E’), the upper and lower flaps defining a receiving channel. However, Shepherd does not disclose a second mattress section (section C in the Examiner’s example) having a longitudinal side including an upper flap and a lower flap, wherein the upper and lower flaps are received into the channel. In fact, the second mattress section contains neither an upper flap nor a lower flap on the longitudinal side referred to by the Examiner. Rather, that longitudinal side of the second mattress section only includes buttons. Thus, the receiving channel defined by the upper and lower flaps of the first mattress section cannot receive the upper and lower flaps of the second section C because those flaps do not exist. This becomes apparent upon analyzing the figures in Shepherd. As shown in FIGS. 1 and 2 of Shepherd, the upper and lower flaps of a mattress section have button holes configured to receive buttons F of an adjacent mattress section. However, as can be seen in FIG. 2 of Shepherd, the side of a mattress section that includes buttons F does not include any flap, lip, rim, or similar feature. As a result, the receiving channel of the first mattress section A receives and is in direct contact with the side of the second mattress section C that includes buttons F and not the side that includes upper and lower flaps.

The second section C shown in FIG. 1 of Shepherd does include upper and lower flaps. Specifically, and as shown in FIG. 1, those upper and lower flaps form a channel that receives mattress section D. However, even if the Examiner modified the configuration shown in FIG. 1 of Shepherd by rotating mattress section C such that the upper and lower flaps of that section are received by the channel defined by the upper flaps (G and E) and the lower flaps (G’ and E’) of mattress section A (which would defeat the purpose of the design), mattress section A is not attachable to mattress section C because the means for fastening (i.e., buttons F) is not present on the sides of the mattress sections that include the upper and lower flaps. Thus, even when Shepherd is modified beyond its intended scope, it does not teach or suggest each element of independent claim 1. Furthermore, even if buttons F were added to the upper and lower flaps of mattress section C such that mattress section A is now attachable to mattress section C, the

resulting mattress in Shepherd would still not address the problem being solved by Applicants. In particular, the problem Applicants sought to solve in the present application was to create an airbed mattress that includes two juxtaposed mattresses that are joined along longitudinal edges, wherein the union formed not only keeps the bladders in place during deflation and folding, but also forms a bridge between the mattresses creating a relatively constant sleep surface across the extents of the mattress (see paragraph [0007] of the application). A relatively constant sleep surface is desirable because discontinuity between the joined edges of two juxtaposed mattresses caused by a shift of the air within the mattresses creates an uncomfortable sleeping surface. In contrast, the second full paragraph of Shepherd states “[t]he object of this invention is to make a mattress so that it will be more convenient for packaging or handling than those made in the ordinary way.” There is no motivation in Shepherd to join two juxtaposed mattresses in such a manner to create a relatively constant sleep surface between two air bladders as contemplated by Applicants because the same discontinuity problems are not present with conventional mattresses. For the reasons stated above, Shepherd fails to teach or suggest each element of independent claim 1, and the reference does not render claim 1 obvious. Therefore, the rejection of independent claim 1 under 35 U.S.C. §103(a) should be withdrawn.

In her rejection of independent claim 1, the Examiner once again took Official Notice of the functional equivalence of bladders and mattresses as sleep surfaces in the art of beds. In response, Applicants now traverse the Examiner’s assertion of Official Notice. It is Applicant’s position that bladders and mattresses are not functional equivalents since conventional mattresses of the type described in Shepherd and bladder-type mattresses of the type described by Applicants do not perform the same function. Unlike conventional mattresses which have a constant firmness, the firmness of a bladder is adjustable. In particular, as opposed to a non-adjustable inner spring mattress, the firmness of an air bed can be quickly adjusted simply by changing the air pressure in the bladder. Moreover, bladders do not compress over time and need replacement as mattresses do. Furthermore, unlike mattresses, bladders do not collect mold and dust mites. Thus, while both bladders and mattresses may be utilized as sleep surfaces, the underlying function of each is not equivalent. Therefore, Shepherd does not teach or suggest a “bladder” as claimed by Applicants. As a result, Applicants respectfully request that the Examiner’s assertion of Official Notice be withdrawn.

Dependent claims 4-7 and 9 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Shepherd. Claims 4-7 and 9 depend from independent claim 1. As such, these claims are allowable with their independent base claim. In addition, it is respectfully submitted that the combinations of features recited in claims 4-7 and 9 are patentable on their own merits, although this does not need to be specifically addressed herein since any claim depending from a patentable independent claim is also patentable.

In rejecting independent claim 17, the Examiner stated that the method steps recited in the claim are “inherent to the use of the device shown by Shepherd ‘850.” Once again, Applicants respectfully disagree with the Examiner’s position. In particular, Shepherd does not teach or suggest a method of creating an uninterrupted sleeping surface with two bladders comprising “providing a first elongate bladder, having a first longitudinal upper lip and a first longitudinal lower lip . . . defining a receiving channel;” “providing a second elongate bladder, having a second longitudinal upper lip and a second longitudinal lower lip;” and “receiving the second longitudinal upper and lower lips into said receiving channel.” Similar to the reasons stated above in reference to independent claim 1, Shepherd fails to teach or suggest each element of independent claim 17. As a result, the reference does not render claim 17 obvious, and the rejection of independent claim 17 under 35 U.S.C. §103(a) should be withdrawn.

With regard to independent claim 17, the Examiner also states that in view of the teaching of Shepherd for the desirability of making mattresses more convenient for packaging or handling, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method disclosed by Shepherd ‘850 such that it would further include the step of folding the first and second bladders into a sleeper sofa when not in use, the motivation being to facilitate the use and storage of the prior art device in a sleeper sofa. The second full paragraph of Shepherd states “[t]he object of this invention is to make a mattress so that it will be more convenient for packaging or handling than those made in the ordinary way.” Thus, the main benefit of the design disclosed in the Shepherd patent is the ability to disassemble the mattress for storage or packaging. According to the Examiner, this may include folding the mattress sections of Shepherd in a sleeper sofa when not in use. However, unlike the mattress design in Shepherd, it is unnecessary to disassemble the sleep surface of the present application in order to fold the

first and second bladders into a sleeper sofa when not in use. As a result, modifying the method disclosed by Shepherd in the manner suggested by the Examiner would not render claim 17 obvious, and the rejection of independent claim 17 under 35 U.S.C. §103(a) should once again be withdrawn.

Dependent claims 18-20 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Shepherd. Claims 18-20 depend from independent claim 17. As such, these claims are allowable with their independent base claim. In addition, it is respectfully submitted that the combinations of features recited in claims 18-20 are patentable on their own merits, although this does not need to be specifically addressed herein since any claim depending from a patentable independent claim is also patentable.

Claims 21-22 were added as “New” claims with the Amendment filed on June 15, 2006, and were not considered by the Examiner. Therefore, claims 21 and 22 are pending in the application and examination of them is respectfully requested.

Conclusion

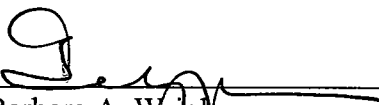
Applicants respectfully submit that with the arguments presented herein all pending claims are allowable over the art of record, for at least the reasons discussed above, and respectfully request that a Notice of Allowance with respect to all pending claims be issued in this case.

If the Examiner believes that a teleconference would be of further value in expediting the allowance of the pending claims, the undersigned can be reached at the telephone number listed below. The present response is being filed within the three-month statutory period for response (on or before November 21, 2006), and no fee or petition for an extension is due. If, however, it is believed that any additional fees are necessary, the Commissioner is hereby authorized to charge or credit any such fees or overpayment to Deposit Account No. 50-1901 (Reference #8929-3049/US).

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Respectfully submitted,

OPPENHEIMER, WOLFF & DONNELLY LLP
Attorneys for Applicants

By 
Barbara A. Wrigley
Reg. No. 34,950
45 South 7th Street, Suite 3300
Minneapolis, MN 55402
Telephone No. (612) 607-7595
Facsimile No. (612) 607-7100
E-Mail Bwrigley@Oppenheimer.com

Customer No. **34205**